

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	MO:24-CR-212
	§	
LUIS OMAR GABRIEL-AGUILAR	§	

**FINDINGS OF FACT AND RECOMMENDATION ON
FELONY GUILTY PLEA BEFORE THE U.S. MAGISTRATE JUDGE**

Pursuant to 28 U.S.C. § 636(b), this matter has been referred by the District Court for administration of guilty plea and allocution under Rule 11 of the Federal Rules of Criminal Procedure.

On November 26, 2024, this cause came before the undersigned U.S. Magistrate Judge for Guilty Plea and Allocution of the Defendant **LUIS OMAR GABRIEL-AGUILAR**¹ on **COUNT ONE**² of the **INDICTMENT** filed herein charging him with a violation of 8 U.S.C. §§ 1326(a) and (b)(1)/(2). The Defendant signed a written consent to plead before the Magistrate Judge. After conducting said proceeding in the form and manner prescribed by Federal Rule of Criminal Procedure 11, the Court finds:

a) that the Defendant, after consultation with counsel of record, has knowingly and voluntarily consented to the administration of the Guilty Plea and Allocution in this cause by a U.S. Magistrate Judge subject to final approval and imposition of sentence by the District Judge;

b) that the Defendant pleaded guilty to **COUNT ONE** of the **INDICTMENT** without a written plea agreement. Any oral agreements were stated into the record by the parties; and,

c) that the Defendant is fully competent and capable of entering an informed plea,³ that the Defendant is aware of the nature of the charge and the consequences of the plea,⁴ and that the

1. The Defendant acknowledged that he has been charged under the true and correct name.

2. An interpreter was present and interpreted the proceedings for Defendant.

3. The Defendant testified that he has discussed with his attorney the adverse immigration consequences of pleading guilty to a felony offense and that he wished to continue with his plea.

4. The Defendant was admonished as to the following possible applicable statutory penalty range of 8 U.S.C. § 1326(a) of not more than two (2) years imprisonment, not more than one (1) year supervised release, a fine not to exceed two hundred fifty thousand dollars (\$250,000.00), and a one hundred dollar (\$100.00) mandatory special assessment; 8 U.S.C. § 1326(b)(1)—if the Defendant was previously convicted of three (3) or more misdemeanors involving drugs, crimes against the person, or both, or a felony (other than an aggravated felony), not more than ten (10) years imprisonment, not more than three (3) years supervised release, a fine not to exceed two hundred fifty thousand dollars (\$250,000.00), and a one hundred dollar (\$100.00) mandatory special assessment; or 8 U.S.C. § 1326(b)(2)—if the Defendant was previously convicted of an aggravated felony, not more than twenty (20) years imprisonment, not more than three (3) years supervised release, a fine not to exceed two hundred fifty

plea of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense.

IT IS THEREFORE the recommendation of the undersigned U.S. Magistrate Judge that the District Court accept the guilty plea of the Defendant **LUIS OMAR GABRIEL-AGUILAR** and that **LUIS OMAR GABRIEL-AGUILAR** be finally adjudged guilty of that offense.

The United States District Clerk shall serve a copy of this Proposed Findings of Fact and Recommendation on all parties electronically. In the event that a party has not been served by the Clerk with this Report and Recommendation electronically, pursuant to the CM/ECF procedures of this District, the Clerk is **ORDERED** to mail such party a copy of this Report and Recommendation by certified mail, return receipt requested. Pursuant to 28 U.S.C. § 636(b)(1), any party who desires to object to this report must serve and file written objections within fourteen (14) days after being served with a copy unless the time period is modified by the District Judge. A party filing objections must specifically identify those findings, conclusions or recommendation to which objections are being made; the District Judge need not consider frivolous, conclusive or general objections. Such party shall file the objections with the Clerk of the Court and serve the objections on the Magistrate Judge and on all other parties. A party's failure to file such objections to the proposed findings, conclusions and recommendation contained in this report shall bar the party from a de novo determination by the District Judge. Additionally, any failure to file written objections to the proposed findings, conclusions and recommendation contained in this report within fourteen (14) days after being served with a copy shall bar the aggrieved party from appealing the factual findings of the Magistrate Judge that are accepted or adopted by the District Judge, except upon grounds of plain error or manifest injustice.

It is so **ORDERED**.

SIGNED this 26th day of November, 2024.



RONALD C. GRIFFIN
UNITED STATES MAGISTRATE JUDGE